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| 09/853,322 | 05/10/2001 | Lorenzo Casaccia | 010317 | 5931 |
| 23696 7590 01/27/2009 QUALCOMM INCORPORATED 5775 MOREHOUSE DR. SAN DIEGO, CA 92121 | | | | |
| EXAMINER TORRES, MARCOS L | | | | |
| ART UNIT 2617 | | PAPER NUMBER | | |
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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

us-docketing@qualcomm.com

kascanla@qualcomm.com

namn@qualcomm.com

Office Action Summary

Application No.

09/853,322

Applicant(s)

CASACCIA ET AL.

Examiner

MARCOS L. TORRES

Art Unit

2617

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 12 May 2008.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-25 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 23 is/are allowed.
- 6) ☒ Claim(s) 1-22, 24-25 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO/SB/08)
- 4) ☐ Interview Summary (PTO-413)
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____
- Paper No(s)/Filing Date: 2-16-06

DETAILED ACTION

Response to Arguments

1. Applicant's arguments with respect to the rejection have been considered, however the arguments are not persuasive.
2. The 112 rejection is maintained because the section of the specification only disclose where a software module may reside, but not disclose or define what is a computer readable medium. Applicant may amend the claim to "a storage medium" instead of "a computer readable medium" in order to overcome 112 1st issue and 101 issue because paragraph 1046 clearly define storage medium is a memory, such as RAM or ROM, etc. Examiner also suggests avoiding the use of intangible storage medium such as carrier wave.
3. In pages 10-12 applicant asserts that is clear in Siwko which elements are performing which task, however only mention that is done by the network and fails to disclose exactly which part of the network is doing the CAC policy, which is basically the same conclusion of the examiner. It seems that the disagreement begins when the examiner interprets that the mobile station is part of the network, which by definition since the mobile station are interconnected with the network they are part of the network. Thereby, the examiner maintains its position that it is unclear which element does the CAC policy and the arguments were not persuasive since the applicant was not able to specifically point out which element of the network was doing the policy.

4. As to applicant's arguments directed to the Redden reference, although the examiner did not rely on that specific reference to show that the adjusting occurs in the mobile station; the statement is inaccurate because when the satellite is modified to inhibit access the affected mobile station they are also adjusted (see page 14).
5. Also applicant asserts that the references are not combinable because it would destroy its intended purposes; the examiner disagrees, the intended purpose of all the references are to deal with loading issues in a communication system and the teachings are complementary to each other to alleviate the load issues. Therefore, as shown by Redden and Iwata it may be performed at the mobile station using the CAC policy of Siwko.
6. The rest of the arguments they fall for the same reasons as shown above. The current rejection in record remains.

Claim Rejections - 35 USC § 112

7. The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

8. Claim 25 is rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention. The claim is directed to a computer readable

Art Unit: 2617

media; however the examiner was not able to find support for this limitation in the specification. Please remember that the specification have to specify a computer readable media, a mention of an abstract software program will not suffice.

Claim Rejections - 35 USC § 103

9. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

10. The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

11. This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

12. Claims 1-4, 6-10, 12-16, 18-20 and 24-25 are rejected under 35 U.S.C. 103(a) as being unpatentable over unpatentable over Siwko (NPL XP-001017264) in view of Redden (EP 0658014) and further in view of Iwata 6735446.

As to claim 1, Siwko discloses a communication system using a method for blocking call request comprising: receiving an initial call dropping probability factor in a calculation to determine call admission or blocking, wherein the probability is determined by a network element; determining an elapsed time from an effective time of said initial probability; adjusting said initial call request block probability based on said elapsed time (see sections II-IV). Siwko fails to disclose receiving at a mobile station an initial call request block probability. In an analog Redden discloses receiving at a mobile station an initial call request block probability (see page 14, lines 4-22), thereby letting know to the mobile station about the call request block. Therefore, it would have been obvious to one of the ordinary skill in the art at the time of the invention to add these teaching to the Siwko system for the simple purpose of maintaining the quality of service by managing the network resources.

Siwko discloses that the receiving and adjusting occur at network element [note that network element can be any element connected to the network, including the mobile device] as pointed by the applicant, but it is silent regarding at which element is doing those task. In another analogous art, Iwata discloses a mobile device that receives a broadcast message that permits or inhibits the mobile device to transmit and adjust accordingly (see col. 13, line 49 – col. 14, line 40). Therefore, it would have been obvious to one of the ordinary skills in the art at the time of the invention to combine

these teachings to let the mobile station know when it is possible to transmit and make a call, without the need of the mobile station transmit when the wireless resources are not present, thereby efficiently managing the finite wireless resources.

As to claim 2, Siwko discloses the method wherein said adjusting includes decreasing said initial call request block probability (see section III formulas).

As to claims 3 and 20, Redden discloses the method further comprising: using said adjusted initial call request to block call request at a mobile station in said communication system (see page 14, lines 4-22).

As to claims 4, 10 and 16, Siwko discloses the method of receiving a time stamp associated with said probability; using said time stamp for determining said elapsed time (see sections II-III).

As to claim 6, Siwko does not disclose the following limitation taught by Redden. Redden discloses the method wherein said adjusted initial call request block probability allows fewer numbers of mobile stations to initiate call requests than a number of mobile stations allowed to initiate call requests at a time of said initial call request block probability (see page 13, lines 51-56).

As to claim 7, Siwko does not disclose the following limitation taught by Redden. Redden discloses the method further comprising: receiving a time period value, wherein said adjusting occurs at least once during a time period substantially equal to said time period value (see page 12, lines 48-50).

Regarding claims 8-9, 12-13 and 19, they are the corresponding apparatus claim of method claim 1, 3, 6-7. Therefore, claim 8 are rejected for the same reason shown above.

Regarding claims 14-15 and 18 are the corresponding system claim of method claim 1, 3 and 7. Therefore, claim 14-15 and 18 are rejected for the same reason shown above.

Regarding claim 24 is the corresponding means plus function claim of method claim 1. Therefore, claim 24 is rejected for the same reason shown above.

Regarding claim 25 is the corresponding computer readable media claim of method claim 1. Therefore, claim 25 is rejected for the same reason shown above.

13. Claims 5, 11 and 17 are rejected under 35 U.S.C. 103(a) as being unpatentable over Siwko in view of Redden (EP 0658014) and further in view of Iwata as applied to claims 1-2, 4, 8, 10, 14, 16 and 19 above, and further in view of Weishaupt (U.S. Patent 4,493,102).

As to claims 5, 11 and 17, Siwko discloses everything claimed as explained above except for the method of receiving a call request block termination time; terminating a call request block performed based on said adjusted initial call request block probability in a gradual process from said effective call request block termination time. Redden discloses receiving a call request block termination time; terminating a call request block (see page 11, lines 43-46). Weishaupt disclose using a gradual process (see col. 1, lines 59-66). Therefore, it would have been obvious to one of the ordinary

skill in the art at the time of the invention to combine these teachings in order to preserve the quality of service.

14. Claim 21-22 are rejected under 35 U.S.C. 103(a) as being unpatentable over Redden in view of Siwko, and further in view of Iwata

As to claim 21, Redden discloses a communication system, an apparatus comprising: a receiver configured for receiving at the mobile station call request block (admission/refusal) information as specified by a network element, and a processor configured for determining said call request block information, wherein the block probability is determined by a network element (see page 14, lines 4-22). Redden does not specifically disclose wherein the call request block information is a percentage of calls to be blocked and adjusting said call request block information. In an analogous art, Siwko discloses wherein the call request block information is a percentage of calls to be blocked and determining elapsed time of the call request block probability and adjusting said call request block information (see sections II-IV). Therefore, it would have been obvious to one of the ordinary skill in the art to determine the elapsed time and adjust the parameters accordingly since the parameters and conditions are not constants and change with time.

Siwko discloses that the receiving and adjusting occur at network element [note that network element can be any element connected to the network, including the mobile device] as pointed by the applicant, but it is silent regarding at which element is doing those task. In another analogous art, Iwata discloses a mobile device that receives a broadcast message that permits or inhibits the mobile device to transmit and

adjust accordingly (see col. 13, line 49 – col. 14, line 40). Therefore, it would have been obvious to one of the ordinary skills in the art at the time of the invention to combine these teachings to let the mobile station know when it is possible to transmit and make a call, without the need of the mobile station transmit when the wireless resources are not present, thereby efficiently managing the finite wireless resources.

As to claim 22, Redden discloses the apparatus wherein said processor is further configured to use said adjusted initial call request to block a call (see page 14, lines 4-22).

Allowable Subject Matter

15. Claim 23 is allowed.

16. The following is a statement of reasons for the indication of allowable subject matter: A method for blocking a call request at a mobile station, the method comprising: receiving at the mobile station an initial call request block probability, the initial call request block probability being a percentage of calls to be blocked as specified by a network element; receiving at the mobile station a time stamp and a time period associated with the received initial call request block probability; determining an elapsed time from an effective time of said initial call request block probability using the received time stamp; iteratively adjusting the initial call request block probability, the number of iterations being based on the ratio of the elapsed time to the received time period; generating a random number by the mobile station between minimum and maximum allowed values associated with the initial call request block probability; and blocking the

call request at the mobile station based on a comparison of the randomly generated number and the adjusted initial call request block probability.

Conclusion

17. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to MARCOS L. TORRES whose telephone number is (571)272-7926. The examiner can normally be reached on 9:30 am - 6:00 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, George Eng can be reached on 571-252-7495. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Art Unit: 2617

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/George Eng/
Supervisory Patent Examiner, Art Unit 2617

/Marcos L Torres/
Examiner, Art Unit 2617